Provider Manual
Part 1 – Provider Approvals
Operational Policy
# Contents

Overview of Provider Approvals ................................................................. 5

Overview ........................................................................................................ 5

Chapter 1 – Submitting an application ...................................................... 6

Overview ........................................................................................................ 6

When to submit an application................................................................. 8

Provider types ............................................................................................. 10

Litigation Experience Levels ..................................................................... 11

Chapter 2 – Application requirements .................................................... 14

Overview ........................................................................................................ 14

Application requirements .......................................................................... 15

Approval types ............................................................................................ 16

Criteria for approval – all applicants ...................................................... 17

Specific Criteria for approval – Explanation of terms ................................ 20

Specific Criteria for approval – Legal Aid services .................................... 21

Specific Criteria for approval – Specified Legal services ......................... 23

Specific Criteria for approval – Courses .................................................... 24

Chapter 3 – Application Assessment, Decision and Review .................... 25

Overview ........................................................................................................ 25

Assessment by the Internal Assessor ....................................................... 27

Assessment by a Selection Committee ...................................................... 28

Assessment by the Secretary for Justice .................................................. 30

Application outcome .................................................................................. 31

Chapter 4 – Re-approval for existing providers ....................................... 32
Overview of Provider Approvals

Overview

About this part
This part of the Provider Manual explains:

- what applicants need to know when applying for approval and re-approval as a provider of legal aid or specified legal services
- what happens in the application assessment process, and
- where applicants can find out about the review process.

Glossary of terms
A glossary of the key terms used in this part can be found in Appendix 1 – Glossary.

References
References to ‘the Act’, ‘Regulations’ or legislative provisions refer to the Legal Services Act 2011 and Legal Services (Quality Assurance) Regulations 2011. Any other Act mentioned is named in full.

In this part
This part contains the following chapters and appendices:

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Submitting an Application</td>
</tr>
<tr>
<td>2</td>
<td>Application Requirements</td>
</tr>
<tr>
<td>3</td>
<td>Re-approval for Existing Providers</td>
</tr>
<tr>
<td>4</td>
<td>Application Assessment, Decision and Review</td>
</tr>
<tr>
<td>Appendix 1</td>
<td>Glossary</td>
</tr>
<tr>
<td>Appendix 2</td>
<td>Relevant Courses</td>
</tr>
</tbody>
</table>
Chapter 1 – Submitting an application

Overview

Process

The diagram below illustrates the process for how applications for approval are assessed. This chapter focuses on the information submitted by the applicant.

Application received and checked if it is complete

- Complete
- Not complete: Further information requested. If not received by date given, application is returned.

Application assessed and sent to Selection Committee

- Complete: Selection Committee assesses and makes recommendation
- Not complete: Application assessed and sent to Selection Committee

Selection Committee assesses and makes recommendation

- Recommends approval
- Recommends decline or approval with conditions

The Secretary considers assessment and recommendation

- Approve
- Recommend approval with conditions

If approved, applicant may be offered a contract.

The Secretary considers the additional information

- Decline or approve with conditions
- Recommends approval

Secretary asks for more information if not satisfied that the applicant should be approved.

Applicant can respond to recommendation. Response considered by the Secretary

Further information requested. If not received by date given, application is returned.
About this chapter
This chapter explains:

– when to submit an application for approval as a provider of legal aid or specified legal services
– what information applicants need to know to before completing an application, including:
  • when to submit an application
  • the different provider types
  • duration of approvals, and
  • how litigation experience levels are quantified.

Legal references
This chapter contains the following references to the Legal Services Act 2011:

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>68</td>
<td>Functions of the Secretary for Justice</td>
</tr>
<tr>
<td>69</td>
<td>Methods of delivery of legal services</td>
</tr>
<tr>
<td>76</td>
<td>Application for approval to provide legal aid services or specified legal services</td>
</tr>
<tr>
<td>77(1)</td>
<td>Approval – if person meets criteria prescribed in Regulations</td>
</tr>
<tr>
<td>77(2)</td>
<td>Conditions on the approval</td>
</tr>
</tbody>
</table>
When to submit an application

Introduction
This section describes when an applicant needs to submit an application.

Applying to be approved as a provider
An applicant may submit an application to become an approved provider (either for the first time or if a previous approval has lapsed).

The table below describes the outcomes of a successful application to become an approved provider for the first time.

<table>
<thead>
<tr>
<th>If...</th>
<th>Then the provider...</th>
</tr>
</thead>
</table>
| the application to become an approved provider for the first time or application for approval in a new area of law is successful | • is added to the Provider Services Register  
• may be offered a contract with the Ministry for that new area of law, and  
• is eligible to provide specific legal services, for a specific period of time, in some or all areas of law for which they have approval subject to entering into a contract with the Ministry. |

Applying for additional approvals
Approved providers may, at any time, submit an application for additional approval in a new area of law for which they do not have approval. However, providers may not provide legal services in a new area of law until they have been approved and contracted to do so.

The table below describes the outcome of a successful application for approval in an additional area of law.

<table>
<thead>
<tr>
<th>If...</th>
<th>Then the provider...</th>
</tr>
</thead>
</table>
| the application by an existing provider for approval in a new area of law is successful | • is added to the Provider Services Register for that new area of law  
• may be offered a contract with the Ministry for that new area of law, and  
• is eligible to provide legal services, for a specific period of time, in that new area of law subject to entering into a contract for additional services with the Ministry. |
Applying to increase litigation experience level

An approved provider (excluding supervised providers and employment advocates) may submit an application to increase the litigation experience level that the provider currently has.

The table below describes the outcome of a successful application to increase the litigation experience level that the provider currently has.

<table>
<thead>
<tr>
<th>If...</th>
<th>Then the provider is...</th>
</tr>
</thead>
<tbody>
<tr>
<td>the application to increase the provider’s litigation experience level is successful</td>
<td>recorded as having the new litigation experience level from the date of the approval.</td>
</tr>
</tbody>
</table>

Duration of the approval

The Secretary approves a provider for a specified period of time. The approval periods are shown in the table below.

<table>
<thead>
<tr>
<th>The approval period for...</th>
<th>Is...</th>
<th>Depending on the...</th>
<th>The standard period is...</th>
</tr>
</thead>
<tbody>
<tr>
<td>a current lead provider or provider of specified legal services</td>
<td>Up to 5 years</td>
<td>type of provider, type of approval, area of law, provider experience, and provider’s other approvals.</td>
<td>5 years.</td>
</tr>
<tr>
<td>a new lead provider or provider of specified legal services</td>
<td>Up to 5 years</td>
<td>type of provider, type of approval, area of law, provider experience, and provider’s other approvals.</td>
<td>3 years.</td>
</tr>
<tr>
<td>a supervised provider</td>
<td>Up to 5 years</td>
<td>type of approval, area of law, provider experience, and provider’s other approvals.</td>
<td>2 years.</td>
</tr>
</tbody>
</table>

Note: Where a provider has multiple approvals, the Secretary will seek to align approval periods.

Expiry of the approval

The provider’s approval will expire after the lapse of this period. The Ministry will send out a notification to the provider at least six weeks prior to the expiry of the provider’s approvals.

The provider must submit a new application on the prescribed form before the approval period lapses. We will notify providers at least three months before their approval(s) are due to expire. This notification will also give the specific details of what information is required in order for them to be re-approved. Where the provider does not respond to this notification within the requisite timeframe, the provider’s approval(s) will expire. There is further information on the re-approvals process in chapter 3.

In addition all supervised provider approvals are subject to the condition that their supervision arrangements and service delivery systems do not change from those approved by the Secretary. If there are any changes to a supervised provider’s supervision arrangements or service delivery systems, the supervised provider must advise the Secretary for Justice of the change/s at least 10 working days prior to the change. This will be considered to be a new application for approval.
If a supervised provider’s supervision arrangements change and they fail to notify us within 10 days, they will no longer meet the condition of their supervised provider approvals and their approvals will cease.

Reference: Section 77(3)(c)

Contract requirement
If a provider is approved by the Secretary to provide legal aid or specified legal services, the provider is eligible to enter into a contract with the Ministry.

Reference: Section 68(2)(c) and (d), and 69(b)

Note: The approval does not confer an entitlement on the provider to provide the services to which the approval relates.

Reference: Section 77(3)(e)

Provider types

Introduction
This section:

- describes the four types of providers of legal services:
- lead provider – lawyer
- lead provider - employment advocate
- providers of specified legal services
- providers other than lead (supervised providers)
- explains that the Secretary may impose additional conditions on an approval.

Lead providers (lawyers or employment advocates)
Lead providers are lawyers or employment advocates who have demonstrated that they meet the criteria for approval, and therefore have been approved in one or more areas of law (see Criteria for Approval – All Applicants).

Lead providers:

- may have received a contract from the Ministry relating to one or more areas of law they are approved in
- may have matters assigned to them, and
- are responsible for the overall management and conduct of any assigned legal aid case including any substantive hearings.

Reference: Regulation 4

Providers of specified legal services
Providers of specified legal services are lawyers who have demonstrated that they meet the criteria for approval, and therefore have been approved in one or more areas of law (see Criteria for Approval – All Applicants).

Providers of specified legal services:
Providers other than lead providers (supervised providers)

Providers other than lead providers (supervised providers) are those who have been approved by the Secretary as they meet the criteria for providers other than lead providers. Supervised providers are lawyers who may not have matters assigned to them, and who do not have the necessary experience or competence to be responsible for the overall management and conduct of any legal aid case, including any substantive hearings.

Consequently, approval as a supervised provider is subject to the requirement that an approved supervised provider is supervised by, and responsible to, a lead provider.

All supervised provider approvals are subject to the supervision arrangements and service delivery systems outlined in their application for approval. If a supervised provider’s supervisions arrangements or service delivery systems change the provider must advise the Secretary for Justice of the change/s at least 10 working days prior to the change. The provider must submit the Change of Details form located on the Ministry of Justice website outlining the changes; this will be considered as a new application for approval.

Reference: Regulation 7

Conditions on approval

As well as the criteria for approval as a lead or other provider, the Secretary may impose conditions on an approval to provide services. Please refer to conditions on approval, for further information on the types of conditions the Secretary can approve.

All supervised provider approvals will be subject to a condition imposed by the Secretary.

Reference: Section 77(2) and (3)(b), and Regulation 10

Litigation Experience Levels

Introduction

This section describes how and why litigation experience is recognised by the Ministry.

Why calculate litigation experience?

Litigation experience levels are used to calculate the lead provider’s (lawyer’s) rate of remuneration for non-fixed fee cases.

Note: Each lead provider (lawyer) is approved at a particular litigation experience level

Levels

The three litigation experience levels are as follows:
Level 1 – less than four years of litigation experience;
Level 2 – between four and nine years of litigation experience; and
Level 3 – more than nine years of litigation experience.

Lead providers (lawyers)
Litigation experience levels are only applicable to providers who have lead provider (lawyer) listing approvals and a contract with the Ministry. Litigation experience levels do not apply to:

– providers other than lead providers (supervised providers);
– employment advocates;
– duty solicitors; or
– PDLA providers.

Application
It is the responsibility of the lead provider (lawyer) to apply for an increase in litigation experience level. To do this, the provider must submit to the Ministry:

– a completed Litigation Experience Level form (which can be found here); and
– proof of litigation experience (employment history).

Assessment
To determine an applicant’s litigation experience level, the Ministry assesses the applicant’s employment history. This includes consideration of any extended period away from the practice of law, or employment as a lawyer in another jurisdiction.

Relevant litigation experience
Legal work is only considered as part of the calculation of litigation experience where the experience was obtained after admission and while holding a current practising certificate.

Note: The Ministry may consider other examples of litigation experience on a case by case basis.

What is not litigation experience
Types of post-admission employment which are not considered by the Ministry to be litigation experience are outlined in the table below.

<table>
<thead>
<tr>
<th>Work type</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>General legal practice work</td>
<td>Work that is predominately related to the drafting of trusts, wills, other types of commercial agreements, conveyancing work, and acting only as an instructing solicitor.</td>
</tr>
<tr>
<td>Legal work where litigation is not undertaken</td>
<td>Legal work such as an in-house legal adviser, law clerking, lecturing, and working as a judge’s research counsel or clerk.</td>
</tr>
<tr>
<td>Non-legal work</td>
<td>Some work has a legal element but for the Ministry’s purposes is not litigation experience, for example policy advice work.</td>
</tr>
</tbody>
</table>

1 This work can only be counted as litigation experience if it is carried out alongside advocacy in person, such as in court or in mediation.
Gaps in litigation experience
A gap in experience is any extended period away from legal practice exceeding a break entitlement of three months. Where a provider considers that the gap should count as litigation experience, the provider must supply the Ministry with relevant additional information.

Providers are required to supply the Ministry with details of any gaps in litigation experience when applying for approval or a change to the provider’s litigation experience level.

If this information is not supplied in an application and the Ministry becomes aware of a gap or errors, the Ministry may adjust the provider’s litigation experience level to reflect the provider’s actual litigation experience and notify the provider accordingly. The Ministry may also refer the provider to its Complaints Management process.

Effective date of increase
An increase to a provider’s litigation experience level is effective from the date on which the Ministry approves the provider’s application.
Chapter 2 – Application requirements

Overview

Process
The diagram below illustrates how approved provider applications are assessed. This chapter focuses on the information submitted by the applicant.

About this chapter
This chapter explains:

– the information required by the Ministry of Justice to process an application for approval or temporary approval; and
– what information applicants need to know to complete an application, including:
  ● materials each provider type must submit;
  ● different approval types applicants can apply for;
  ● criteria all applicants must meet for approval; and
  ● specific criteria applicants must meet for each approval type.

Legal references
This chapter contains the following references to the Legal Services Act 2011:

<table>
<thead>
<tr>
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</tr>
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<tr>
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<td>Conditions on the approval</td>
</tr>
</tbody>
</table>

This chapter contains the following references to the Legal Services (Quality Assurance) Regulations 2011:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Criteria for approval</td>
</tr>
</tbody>
</table>
Application requirements

Introduction
This section lists the application requirements for each provider type.

Required materials
The table below lists the required materials for each of the provider types.

<table>
<thead>
<tr>
<th>Provider type</th>
<th>Application requirements</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lead provider – lawyer or provider of</td>
<td>• information about the applicant and the areas of law for which they are applying</td>
</tr>
<tr>
<td></td>
<td>– original or certified copy of Certificate of Standing - this must be valid when the</td>
</tr>
<tr>
<td></td>
<td>complete application is received by the Ministry</td>
</tr>
<tr>
<td></td>
<td>– information about service delivery systems</td>
</tr>
</tbody>
</table>
Approval types

Introduction
This section describes the approval types for providers.

Approval types
Approvals to provide legal services are classified into the following schemes:

Legal Aid Services
- Criminal (Criminal Provider Approval Level 1-4)
- Family
- Civil
- Mental Health
- Refugee and Protected persons
- Māori Land Court and Māori Appellate Court
- Waitangi Tribunal
- Court of Appeal and Supreme Court
- Employment advocate (non-lawyers)

**Specified Legal Services**
- Duty lawyer
- Police Detention Legal Assistance (PDLA)

**Note:** Providers may be approved under one or more of these approval types.

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**Criteria for approval – all applicants**

**Introduction**
This section describes the criteria for approval which must be met by all applicants.

**Professional entry requirements and restrictions on practice**
Any applicant who is a lawyer (as defined by section 6 of the Lawyers and Conveyancers Act 2006) must provide a Certificate of Standing from the New Zealand Law Society.

An applicant who is an employment advocate must be a current member of the Employment Law Institute of New Zealand Inc.

**Reference:** Regulation 5

**PRACTISING CERTIFICATES**
Applicants must not, at any time over the previous five years have:
- had their practising certificate suspended
- been struck off, or
- been declared bankrupt.

**Note:** The Ministry may consult with the New Zealand Law Society, and will take into consideration whether the circumstances documented will affect the lawyer’s fitness to practise as a legal aid provider.

No person may hold at the same time both a practising certificate issued as a barrister and solicitor and a practising certificate issued as a barrister. Consequently, applicants must provide evidence of the appropriate practising certificate. On this basis, if prior to submitting an application, a person changes their status to or from a barrister and solicitor to or from a barrister sole, they will need to provide a copy of their practising certificate recording their new status.

**Reference:** Lawyers and Conveyancers Act 2006, section 39(3)

**Fit and Proper Person**
All applicants must provide information to satisfy the Secretary that they are a fit or proper person to provide legal aid services or specified legal services. This is a separate requirement to the New Zealand Law Society’s requirement that a person must be a ‘fit and proper person’ in order to be admitted to the bar.

The Secretary can consider the following information to determine if an applicant is a fit and proper person to provide legal aid or specified legal services:
The Secretary may give written notice that a provider is not required to provide details of convictions and/or upheld complaints.

**CRIMINAL OFFENCES**

All applicants must provide information about any criminal convictions other than convictions for minor traffic offences not covered by the Criminal Records (Clean Slate) Act 2004.

The Secretary will determine whether any criminal offence/s might adversely affect:

- their relationship with legal aid clients; or
- the integrity and credibility of the legal aid services or specified legal services.

**COMPLAINTS**

All applicants must provide information about any upheld or substantiated complaints against them by the applicant’s regulatory body, the Legal Services Agency, the Ministry of Justice or any other body.

- The Secretary will consider all complaints upheld against an applicant under the Lawyers and Conveyancers Act 2006, the Legal Services Act 2000 and the Legal Services Act 2011. When considered together, the applicant’s history of complaints under these Acts must not pose a risk to the integrity of the legal aid services or specified legal services; or
- contravene the Ministry of Justice’s practice standards.

Reference: Regulation 9C

**Service delivery systems**

All applicants applying for approval must have satisfactory service delivery systems that enable them to carry out quality legal services and account for their legal aid work effectively, efficiently and ethically. We assess this by ensuring you have processes and systems in place to:

- manage client service requirements and expectations
- manage scheduling conflicts
- manage complaints
- manage conflicts of interest
- invoice your time accurately
- maintain accurate client files.

You will also need to provide copies of your client care letter and/or standard letter of engagement that you provide to legal aid clients.

Reference: Regulation 9

**Competence and experience**

All applicants applying for approval as a lead provider (lawyer) or provider of specified legal services must demonstrate experience and competence by providing case examples and work samples as evidence of their experience in the relevant area of law for which they are seeking approval. The applicant may provide case examples and work samples from their experience as a lawyer. This includes experience gained in the private sector, public sector, as a legal aid provider and overseas.

It is recommended that case examples are recent cases (last five years) where the applicant played a substantial and active role in accordance with the specific criteria for the areas of law as specified in
the schedule to the Regulations. However, the applicant may provide case examples from outside this period.

Reference: Regulation 6(1) and (2)(a)–(c)

Work samples
Work samples should be recent (from the last five years). Work samples can include:

- submissions to the court;
- correspondence to or on behalf of a client;
- opening and closing addresses; or
- examination notes.

Note: The Secretary may give written notice that a provider is not required to provide work samples, but may require other proof of the applicant’s recent experience.

Reference: Regulation 9A

References
All applicants must provide at least two references. If the applicant is seeking approval in more than one area of law, the applicant must provide a reference for each area of law.

Applicants seeking approval as a lead provider or provider of specified legal services must ensure that referees:

- are experienced in the area of law in which an applicant is seeking approval
- can comment on the required competencies outlined by the Ministry
- have direct experience and recent knowledge of the applicant’s skill in the area of law or Criminal Provider Approval Level (PAL) for which they are seeking approval, and/or
- where an applicant is applying for lead provider approval in criminal, referees should have a higher Criminal PAL than the Criminal PAL for which the applicant is applying for, or are a peer at Criminal PAL 4.

Applicants seeking approval as a supervised provider must ensure that one of the referees:

- is the person that will be supervising the applicant in the area of law applied for;
- experienced in the area of law in which an applicant is seeking approval; and
- can comment on the required competencies outlined by the Ministry.

Other referees must not be related to the applicant, and must be able to comment on the applicant’s character and suitability to provide legal aid services. The Ministry may contact an applicant’s referees to verify the information that an applicant provides.

Note: The Secretary may give written notice that a provider is not required to provide references, but may require other proof of the applicant’s recent experience.

Reference: Regulation 9B
Specific Criteria for approval – Explanation of terms

Introduction
This section provides guidance on the terms used in the specific criteria for approval.

Recent experience
The Secretary considers recent experience to be relevant post-admission legal experience gained in the last five years.

If an applicant does not satisfy the requirement that his or her relevant experience is recent, the Secretary may give written notice that a provider is not required to provide recent case examples, but may require other proof of the applicant’s recent experience. The Secretary must still be satisfied that the applicant meets the relevant experience and competence requirements in all other respects and is satisfied that the applicant has the appropriate level of knowledge and skill.

Reference: Schedule to the Regulations

Substantial and active
The Secretary considers that a substantial and active role should demonstrate involvement in the tasks a lead provider must carry out on a legal aid assignment. In most cases this would be interpreted as considerable input into the court or informal proceedings (such as mediation, negotiation, examination or cross examination of witnesses, leading evidence, delivering opening and/or closing addresses, and presenting submissions). However, substantial preparation and pre-trial contributions are considered on an individual basis.

The Secretary considers that demonstration of a substantial and active role would include:

– pre-court or preparation tasks. This includes research, client consent, liaising with the opposing counsel, drafting submissions and court documents.
– appearances in Court or proceedings. This includes appearances at trials, hearings (where relevant), experience and attendance at court, making opening address, leading evidence, examining and cross examining witnesses and experts, addressing the court, closing addresses and presenting submissions.

You do not have to demonstrate all the tasks in every example provided, but you do need to demonstrate that you can manage a case from start to finish as sole counsel. While some case examples may not demonstrate the entire range of involvement compared to others, overall the case examples must demonstrate ‘active and substantial involvement’.

Reference: Schedule to the Regulations
Specific Criteria for approval – Legal Aid services

Introduction
This section lists the criteria that applicants must meet to provide legal services as a lead provider (lawyer).

Criminal matters
Approval to provide criminal legal services is divided into four categories. The table below lists the requirements for each of the four categories. For approval as a duty lawyer or for PDLA, please see the specific criteria for approval for specified legal services.

<table>
<thead>
<tr>
<th>Criminal Provider Approval Level</th>
<th>Applicant must have</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>• at least 12 months’ recent experience in criminal practice, and &lt;br&gt;• appeared as counsel with substantial and active involvement in at least 3 trials in criminal proceedings.  &lt;br&gt;<strong>Reference:</strong> Schedule clause 2</td>
</tr>
<tr>
<td>2</td>
<td>• at least 24 months’ recent experience working on approval level 1 criminal proceedings, and &lt;br&gt;• appeared as counsel with substantial and active involvement in at least 3 trials in proceedings that are Crown prosecutions or indictable matters. &lt;br&gt;<strong>Reference:</strong> Schedule clause 3</td>
</tr>
<tr>
<td>3</td>
<td>• at least 36 months’ recent experience working on approval level 2 criminal proceedings, and &lt;br&gt;• have appeared as counsel with substantial and active involvement in at least 4 approval level 3 or 4 criminal proceedings where: &lt;br&gt;− at least 1 charge carries a maximum penalty of more than 10 years’ imprisonment or &lt;br&gt;− the person charged is likely to face cumulative sentences of more than 10 years’ imprisonment. &lt;br&gt;<strong>Reference:</strong> Schedule clause 4</td>
</tr>
<tr>
<td>4</td>
<td>• at least 24 months’ recent experience working on approval level 3 criminal proceedings; and &lt;br&gt;• appeared as counsel with substantial and active involvement in at least 4 approval level 3 or 4 criminal proceedings where at least 1 of those proceedings is an approval level 4 criminal proceedings. &lt;br&gt;<strong>Reference:</strong> Schedule clause 5</td>
</tr>
</tbody>
</table>
Civil
The applicant must have:
- at least 18 months’ recent experience working on civil cases; and
- appeared as counsel with substantial and active involvement in at least 3 civil proceedings, and
- assisted in the preparation of at least 2 other civil proceedings.

Reference: Schedule clause 8

Family
The applicant must have:
- at least 18 months’ recent experience working on family cases; and
- had substantial and active involvement in at least 5 family cases of various types including, without limitation, interlocutory hearings, mediation conferences, judicial conferences and proceedings where witnesses gave oral evidence.

Reference: Schedule clause 9

Māori Land Court, and Māori Appellate Court
The applicant must have:
- at least 18 months’ recent experience working on Māori Land Court cases; and
- had substantial and active involvement in at least 3 substantial Māori Land Court proceedings; and
- sound knowledge of the Treaty of Waitangi, and Māori land law; and
- an understanding of tikanga Māori and basic ability in te reo Māori.

Reference: Schedule clause 10

Waitangi Tribunal
The applicant must have:
- at least 18 months’ recent experience working on Waitangi Tribunal cases; and
- have had substantial and active involvement in at least 3 substantial Waitangi Tribunal proceedings; and
- have sound knowledge of the Treaty of Waitangi and Waitangi Tribunal jurisprudence; and
- have an understanding of tikanga Māori and basic ability in te reo Māori.

Reference: Schedule clause 11

Mental Health
The applicant must have:
- at least 24 months’ recent experience working on family law or criminal law cases; and
- observed at least 3 completed mental health cases.

Reference: Schedule clause 12

Refugee and Protected Persons
The applicant must have:
- at least 18 months’ recent experience working on refugee and ‘protected persons’ cases;
— had substantial and active involvement in at least 5 cases at the Refugee Status Branch level; and
— actively participated in at least 1 proceeding before the Immigration and Protection Tribunal, the Deportation Tribunal, the Refugee Status Appeal Authority, or the Removal Review Authority.

Reference: Schedule clause 13

Court of Appeal and Supreme Court
The applicant must have:
— at least 5 years’ recent experience in litigation work; and
— had substantial and active involvement in 5 appeal proceedings of various types including, without limitation:
  • pre-trial hearings
  • Solicitor-General’s appeal; and
  • appeal by way of case stated.

Note: all proceedings must have been held in the High Court or in another higher court

Reference: Schedule clause 14

Specific Criteria for approval – Specified Legal services

Introduction
This section lists the criteria that applicants must meet to provide specified legal services.

Duty lawyer
The applicant must have:
— have at least 6 months’ recent experience in criminal law practice; and
— have appeared as counsel with substantial and active involvement in at least—
  • 1 pre-trial hearing; and
  • 1 hearing at which an opposed application for bail was made; and
  • 1 trial conducted by or on behalf of the New Zealand Police before a Judge alone; and
  • 1 sentencing hearing at which a plea in mitigation was made; and
— have successfully completed a course of training for duty lawyers that is conducted by the New Zealand Law Society, unless the Secretary has given written notice to the applicant that the applicant is not required to complete such a course of training.

Reference: Schedule clause 6

Police Detention Legal Assistance
The applicant must have:
— at least 24 months’ recent experience working on approval level 1 criminal proceedings, and
– appeared as counsel with substantial and active involvement in at least 3 trials in proceedings that are Crown prosecutions or indictable matters.

Reference: Schedule clause 7

Specific Criteria for approval – Courses

Introduction
As part of the requirement to show evidence of competence and experience in the relevant area of law for which the applicant is seeking approval, the Secretary may take into account any relevant courses successfully completed.

This can include where the applicant has been a faculty member, presenter or ran the course.

This section lists the courses determined by the Secretary as relevant for specific areas of law, as set out below.

Changes to courses
The Secretary may from time to time modify the list of relevant courses or course components. The Secretary will advise of any course changes through the Ministry’s website.

Reference: Regulation 6(3)

Relevant Courses
Appendix 2 lists the courses considered relevant to each area of law.
Chapter 3 – Application Assessment, Decision and Review

Overview

Process
The diagram below illustrates how applications for approval are assessed. This chapter focuses on the assessment of applications.

About this chapter
This chapter describes the stages of the application assessment process and the application outcome. The application is assessed by:

- the Internal Assessor;
- the Selection Committee; and
- the Secretary for Justice.
Legal references
This chapter contains the following references to the Legal Services Act 2011:

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>68</td>
<td>Functions of Secretary for Justice</td>
</tr>
<tr>
<td>69</td>
<td>Methods of delivery of legal services</td>
</tr>
<tr>
<td>76</td>
<td>Application for approval to provide legal aid services or specified legal services</td>
</tr>
<tr>
<td>77(1)</td>
<td>Approval if person meets criteria</td>
</tr>
<tr>
<td>77(2)</td>
<td>Secretary may impose any conditions on approval</td>
</tr>
<tr>
<td>77(3)</td>
<td>The approval</td>
</tr>
<tr>
<td>77(4)</td>
<td>Secretary must provide reasons for decision to give or decline approval</td>
</tr>
<tr>
<td>77(7)</td>
<td>Notify New Zealand Law Society</td>
</tr>
<tr>
<td>78</td>
<td>Selection Committees</td>
</tr>
<tr>
<td>82</td>
<td>Review of decision of Secretary regarding approvals</td>
</tr>
<tr>
<td>83</td>
<td>Judicial review</td>
</tr>
<tr>
<td>84-87</td>
<td>Review Authority</td>
</tr>
</tbody>
</table>

This chapter contains the following references to the Legal Services (Quality Assurance) Regulations 2011:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>11</td>
<td>How applications for approval are assessed</td>
</tr>
<tr>
<td>12</td>
<td>Recommendation of Selection Committee</td>
</tr>
<tr>
<td>13</td>
<td>Confidentiality</td>
</tr>
<tr>
<td>14</td>
<td>Chairperson</td>
</tr>
<tr>
<td>18</td>
<td>Conflicts of interest</td>
</tr>
</tbody>
</table>

In this chapter
This chapter contains the following sections:

<table>
<thead>
<tr>
<th>Section</th>
<th>See Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>Assessment by the internal assessor</td>
<td>36</td>
</tr>
<tr>
<td>Assessment by a selection committee</td>
<td>38</td>
</tr>
<tr>
<td>Assessment by the Secretary for Justice</td>
<td>41</td>
</tr>
<tr>
<td>Application outcome</td>
<td>42</td>
</tr>
</tbody>
</table>
Assessment by the Internal Assessor

Introduction
This section describes the first stage of the assessment of an application to become an approved provider.

Functions of the Internal Assessor
The Internal Assessor within the Ministry is responsible for:

- determining whether the application is complete;
- asking the applicant for more information;
- carrying out the initial assessment of the application;
- managing information requests from the Selection Committee and the Secretary;
- performing quality assurance checks on applications where appropriate, and

Making an initial assessment of the application

APPLICATION COMPLETENESS
The Internal Assessor reviews the content of the application against a checklist for completeness. In particular, this focuses on information to be supplied with the application.

If the application is not made in the prescribed manner, which includes incomplete applications, the application is returned to the applicant identifying the information that is required. This is not a decision to decline approval.

Note: see Appendix 2 Guidance on Completing Application

Reference: Section 76

INITIAL ASSESSMENT
The Internal Assessor makes an initial assessment of the application according to the criteria for approval set out in the Act and Regulations and using an assessment tool which helps to ensure consistency of approach across all applications.

In assessing the application (and supporting information), the Internal Assessor may be:

- highly confident that the written application meets the criteria
- confident that the written application meets the criteria
- not yet confident that the written application meets the criteria, or
- not confident that the written application meets the criteria.

Submission to a Selection Committee
All applications for lead provider approvals are submitted in full to the Selection Committee. The Internal Assessor also submits the initial assessment of the application.

Applications for supervised provider approvals will be sent to a Selection Committee on an exception basis. For example, if there are concerns about supervision arrangements because the lead provider already supervises several supervised providers or if the lead provider and supervised provider do not work near each other.
Assessment by a Selection Committee

Introduction
This section describes the second stage of the assessment of an application to become an approved provider.

About Selection Committees
Selection Committees may be established by the Secretary to assess applications. Each Selection Committee includes:

- a Ministry representative who is chair of the Selection Committee
- Law Society nominee/s with relevant knowledge and skills, and
- other people as considered suitable by the Secretary.

Note: Once established, it is expected that each Selection Committee will meet monthly to assess applications for approval relevant to the areas of law and/or types of approvals.

Reference: Section 78 and Regulation 15

Quorum
The quorum for the Selection Committee is three members.

Reference: Regulation 17

Functions of Selection Committees
Selection Committees are responsible for providing recommendations to the Secretary on whether applications meet the relevant approval criteria.

Selection Committees must assess the application on the basis of the information provided in the application, including any further information that is sought, and the Selection Committee members’ knowledge of the applicant (if any).

Note: Selection Committee will only assess applications that are complete and made in the prescribed manner.

Reference: Regulation 11

Appointment of Chairperson and Selection Committee members
The Chairperson and members of the Selection Committee are appointed by the Secretary.

The Chairperson determines the composition of the Selection Committee they are chairing and ensures that the members of the Selection Committee have the appropriate expertise to assess the applications before them.

Reference: Section 78(2) and Regulation 14

Assessment
The Selection Committee assesses the application against the relevant approval criteria.

The Selection Committee may make its own enquiries with the NZLS, any judge, the applicant’s peers, or any other person that the Selection Committee considers relevant to the application before making a recommendation.

If the Selection Committee considers information not submitted by the applicant, the applicant will be given a chance to respond to this information. The Selection Committee will provide enough
detail to enable the applicant to respond. For example, they may give the details of a particular case or hearing.

The Selection Committee may also seek further information from the applicant.

Reference: Regulation 11

Recommendation

The Selection Committee makes a recommendation in writing to the Secretary based on the majority of votes cast at a meeting of the Selection Committee. The Selection Committee must provide reasons for the recommendation.

If the Selection Committee recommends that an applicant be declined or approved with conditions, the applicant will be given a chance to respond to the recommendation. This response will be given to the Secretary for consideration.

Reference: Regulation 12

Confidentiality

The Selection Committee must keep confidential all information provided or disclosed to it as a result of an application, except as required to meet its obligations under any statutory obligations.

In addition, the Selection Committee will only retain all information disclosed to it as a result of an application for as long as is required to meet their obligations.

The Selection Committees do not keep formal minutes of their meetings. Where the Selection Committee makes a recommendation or comes to a resolution, the Chair will sign a written recommendation or resolution that may be released to the applicant.

Reference: Regulation 13, and The Official Information Act 1982 and The Privacy Act 1993

Conflicts of interest

If a member of the Selection Committee has a conflict of interest, the member must declare the conflict of interest to the Chairperson. If the Chairperson considers that the conflict of interest is likely to materially affect the member’s impartiality, the member is required to step aside from any involvement in the application.

If the Chairperson of the Selection Committee has a conflict of interest, the Chairperson must declare the conflict of interest to the Secretary. If the Secretary considers that the conflict of interest is likely to materially affect the Chairperson’s impartiality, the Chairperson is required to step aside from any involvement in the consideration of the application.

Reference: Regulation 18
Assessment by the Secretary for Justice

**Introduction**
This section describes the third and final stage of the assessment of an application to become an approved provider.

**Functions of the Secretary**
The Secretary is responsible for the establishment, maintenance and purchase of high-quality legal services in accordance with the Act. With respect to an application to become an approved provider, this includes:

- considering recommendations made by the Selection Committee;
- deciding whether to approve or decline the application; and
- (if approved) determining whether the application approval is subject to any conditions.

**Note:** The Selection Committee makes recommendations to the Secretary, but the Secretary makes the decision on an application.

**Reference:** Section 68

**Approve or decline application**
The Secretary decides whether to approve or decline the application after assessment against the criteria for approval contained in the Regulations and relevant provisions of the Act. The Ministry notifies the applicant in writing of the Secretary’s decision. The Secretary must provide reasons for the decision.

Where the Selection Committee has recommended that an application for approval be declined, the applicant will be given a chance to respond to the reasons for the recommendation. This response will be given to the Secretary for consideration.

**Reference:** Section 77(4)

**Conditions on approval**
The Secretary may impose conditions on an approval to provide legal services. In this case, the approved provider must provide the legal services in accordance with the conditions. Conditions may include requirements for:

- supervision
- training or mentoring, and
- restrictions on the types of proceedings in which the applicant may provide services.

**Note:** Conditions on approval may be imposed for a specific period of time.

**Reference:** Section 77(2) and Regulation 10
Application outcome

Introduction
This section describes the actions taken after an application to become an approved provider has been assessed by the Internal Assessor, Selection Committee, and the Secretary.

Secretary’s decision
The Secretary approves or declines the application to provide one or more legal aid or specified legal services.

Reference: Section 77

Conditional approvals
The Secretary may impose conditions on approvals.

Reference: Section 77(2) and Regulation 10

Notifying the New Zealand Law Society
The Secretary is required to notify the NZLS of an approval or temporary approval. The Secretary meets this obligation by publishing the approvals on the ‘Find a Lawyer’ page on the Ministry of Justice website.

Reference: Section 77(7)

Notifying the applicant
The Ministry notifies the applicant of the Secretary’s decision to approve or decline the application within five working days of the Secretary’s decision. If a decision cannot be made within five working days, we will notify you of the delay by email and give reasons.

Reference: Section 77(3)

Contract requirement
The approved provider may, at the Ministry’s discretion, be offered a contract. If so, the approved provider must enter into the contract before providing the legal services.

Reference: Section 69(b)

Review of the Secretary’s decision
The applicant may request a review of the Secretary’s decision. An application for a review must be lodged with the Review Authority within 20 working days from the date of notice of the Secretary’s decision.

Reference: Section 82(1)(a) and (b)

For more information on the review process refer to the Ministry of Justice website.
Chapter 4 – Re-approval for existing providers

Overview

About this chapter
This chapter sets out the Secretary’s operational policy and process for the re-approval of existing providers.

Under the Act, the Secretary approves providers to provide legal aid services and/or specified legal services (legal aid services) for a fixed length of time.

The duration of the approval depends on the provider’s experience in the relevant area of law and any other considerations that may reflect on their competence or suitability to be a provider.

Should an existing provider wish to extend the duration of their approval, an application for re-approval must be submitted prior to the expiry of the approval.

This policy relates to the Secretary’s discretion to waive certain information requirements in determining whether a provider continues to meet the criteria for approval.

Legal references
This chapter contains the following references to the Legal Services Act 2011:

<table>
<thead>
<tr>
<th>Section</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>75</td>
<td>No person may provide legal aid service or specified legal service unless approved</td>
</tr>
<tr>
<td>76</td>
<td>Application for approval to provide legal aid services or specified legal services</td>
</tr>
<tr>
<td>77(1)</td>
<td>Approval – if person meets criteria prescribed in Regulations</td>
</tr>
<tr>
<td>77(2)</td>
<td>Conditions on the approval</td>
</tr>
</tbody>
</table>

This chapter contains the following references to the Legal Services (Quality Assurance) Regulations 2011:

<table>
<thead>
<tr>
<th>Regulation</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>Criteria for approval</td>
</tr>
<tr>
<td>5</td>
<td>Professional entry requirements</td>
</tr>
<tr>
<td>6</td>
<td>Experience and competence requirement</td>
</tr>
<tr>
<td>7</td>
<td>Approval other than lead provider</td>
</tr>
</tbody>
</table>
Re-approval process

To be re-approved, a provider must continue to meet the criteria for approval set out in the Act, the *Legal Services (Quality Assurance) Regulations 2011* (Regulations) and the Secretary’s Provider Approval Policy.

The re-approval process focuses on the provider’s performance since their approval or most recent re-approval. By taking into consideration the results of any audit by the Ministry of Justice and/or outcomes of any substantiated complaints, the Secretary can make an informed decision as to whether a provider should continue providing legal aid services in the relevant area of law.

**When to apply**

Ideally a provider should submit their application for re-approval at least four weeks before their approval is due to expire, to ensure there is no disruption to their ability to provide legal aid services.

We will issue a courtesy reminder eight weeks prior to the expiry of a provider’s approval. This will be followed up with reminders at four weeks and two weeks prior to the approval expiry date.

**Failure to re-apply**

If a provider does not submit an application for re-approval before their approval expires, the provider must stop providing legal aid services in the relevant area/s of law (section 75 of the Act).

When a provider is then no longer approved, the Secretary must terminate the provider’s legal aid contract by issuing a written notice to the provider – see clause 11.1 of the Contract for Services.

The provider can only resume providing legal aid services once they have been granted an approval in the relevant area/s of law. This involves submitting an application for approval and entering into a new contract should the contract have been terminated.

Under the Regulations, the Secretary may still waive certain information requirements in the re-approval application process, for up to six months after the expiry of an existing provider’s approval.

Application requirements

**Secretary’s waiver**

All applications for re-approval are assessed against the approval criteria in the Act and the Regulations. However, under regulations 5-9 of the Regulations, the Secretary is able to modify or
waive certain information requirements, by way of a written notice. This written notice will be included in the reminder letters and re-approval application forms sent to relevant providers.

The application process for re-approval is designed to take into consideration the provider’s history and performance during the preceding approval period/s. The application process is adapted based on the provider’s experience and history as a lawyer, in particular their history as a legal aid provider. Consequently, the process may differ between individuals, but the actual requirements do not differ.

As we receive copies of all determinations about providers from the New Zealand Law Society Standards Committees, the Legal Complaints Review Officer and the Lawyers and Conveyancers Disciplinary Tribunal, the Secretary is well informed as to whether a re-approval should be granted based on any performance related issues, or issues relevant to the provider’s fitness to provide legal aid services, external to legal aid.

**Re-approvals where there are no concerns indicated**

**PROVIDING THAT THE SECRETARY IS, ON THE BASIS OF THE INFORMATION AT HAND, SATISFIED THAT...**

- the provider has a current practising certificate;
- the provider has been actively involved in sufficient cases to meet the experience and competence requirements;
- since the provider’s approval or last re-approval:
  - the provider has not been convicted of any offence punishable by imprisonment;
  - there have been no complaints under the Act or the Lawyers and Conveyancers Act 2006 that have been substantiated or upheld; and
  - there have been no adverse audit results.

**... THEN IT IS LIKELY THAT THE SECRETARY WILL ONLY REQUEST THE FOLLOWING:**

<table>
<thead>
<tr>
<th>Lead provider</th>
<th>Supervised provider</th>
</tr>
</thead>
</table>
| • Written confirmation that, since the provider’s approval or last renewal, the provider:
  - has not been convicted of any offence punishable by imprisonment;
  - has not had a complaint substantiated or upheld under the Lawyers and Conveyancers Act 2006.
| • Written confirmation that, since the provider’s approval or last renewal, the provider:
  - has not been convicted of any offence punishable by imprisonment;
  - has not had a complaint substantiated or upheld under the Lawyers and Conveyancers Act 2006. |
| • Written confirmation that the provider completed the majority of the work on the cases listed on the prepared case report. | • A Part 4 Supervision Arrangement form completed by the supervised provider’s lead provider. |
| • Written confirmation that the provider’s service delivery systems have not been changed significantly since the provider submitted, either, their most recent:
  - application for approval or re-approval as a legal aid provider under the Act; or
  - “Change of Details” form detailing any changes to their service delivery systems. | |
Re-approvals where there is cause for concern and/or need for further information

The Secretary is responsible for the maintenance and purchase of high-quality legal services in accordance with the Act. Should the Secretary have cause for concern or need further information in regard to any of the areas below, the following table outlines the additional information that is likely to be required from the provider.

<table>
<thead>
<tr>
<th>Secretary has reason to believe the provider …</th>
<th>Regulations that are impacted:</th>
<th>…then the provider may be asked to:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Has not renewed their Practicing Certificate</td>
<td>5. Professional Entry</td>
<td>• Provide a valid Certificate of Standing issued by the NZLS.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Has been convicted of an offence(s) punishable by imprisonment</td>
<td>5. Professional Entry 9C. Fit and Proper Persons</td>
<td>• Provide information about the circumstances of the conviction(s).</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
| Has had a complaint substantiated or upheld under the Act or the Lawyers and Conveyancers Act, or an audit result below ‘Acceptable’ from the Ministry of Justice | 5. Professional Entry 6. Experience & Competence (Lead) 9. Service Delivery Systems 9A. Work samples 9B. References 9C. Fit and Proper Persons | • Complete Part 1 of the application form.  
• Provide details and evidence of any remedial action taken in response to substantiated complaints/audit concerns.  
• Provide references – the referee may be asked to refer to recent concerns.  
• Provide evidence and submissions as to why the provider should be considered a Fit and Proper Person to provide legal aid and specified legal services under the Act. |
|                                               |                                 |                                   |
| Has changed employment or changed supervision arrangements | 7. Adequate supervision in place | • Complete a change of details form.  
• Submit a Part 4 Supervision Arrangement completed by the supervised provider’s new lead provider. |
|                                               |                                 |                                   |
| Does not have sufficient recent experience and/or competency in the relevant area(s) of law. For example, the provider may have done no/insufficient legal aid work and must provide other evidence | 6. Experience & Competence (Lead) 9A. Work samples | • Complete a legal aid provider application form.  
• Complete a specified number of work samples or a case summary sheet for a specified period.  
• Confirm that a list of assignments recorded is correct.  
• Provide details of any courses that the provider has completed or presented.  
• Provide other proof of current legal knowledge or experience. |
|                                               |                                 |                                   |
| Has made significant changes to their Service Delivery Systems | 9. Service delivery systems | • Provide information on their updated service delivery systems. |
Secretary’s decision

Initial assessment
Once an application is received, the Provider Services unit (Provider Services), acting under delegation from the Secretary, assesses the contents of the application for completeness, whilst taking into consideration any particular concerns noted by the Secretary or information requirements that may have been waived.

If an application is incomplete, Provider Services will return it to the provider requesting further information before the Secretary makes a recommendation.

Secretary’s decision
The Secretary’s decision to approve or decline the application is delegated to the General Manager, Legal Aid Services. The decision may remove, amend or impose conditions on the approval. The Secretary may refer the application to an appropriate Selection Committee for their recommendation if the Secretary considers that their input is necessary to make an approval or re-approval decision.

Selection Committees
The function of the Selection Committees, under section 78 of the Act, is to assess applications for approval and advise the Secretary of the suitability of applications.

Approval conditions
The Secretary may impose conditions on an approval, which the provider must adhere to at all times when providing legal aid services.

Conditions may include a requirement for the provider to be supervised by a lead provider, training or mentoring, or a restriction on the type of legal aid services they may provide. Conditions can span the entire length of the approval, or they can be imposed for a specific period of time.

Alternatively, the Secretary may remove an existing condition if it is no longer considered necessary.

Update to the provider
Once the Secretary has made a decision, Provider Services notifies the provider whether their application for re-approval has been successful.

Review Authority
If an applicant disagrees with the Secretary’s decision to decline their approval, or impose conditions on their approval, the applicant may apply to the Review Authority under section 82 of the Act for a review of the Secretary’s decision.

Notification to the New Zealand Law Society
The Secretary is required to notify the New Zealand Law Society of an approval or temporary approval. The Secretary meets this obligation by publishing the approvals on the ‘Find a Lawyer/Provider’ page on the Ministry of Justice website.
Appendix 1 – Glossary of terms

Act
Means the Legal Services Act 2011.

Applicant
Means a person who applies for approval under the Act and in accordance with the Regulations.

Application
Means an application for approval made under the Act and in accordance with the Regulations.

Case examples
Means examples of cases that demonstrate experience and competence, and the substantial and active involvement of an applicant in a case.

Competence
Means a demonstrated ability that the applicant can undertake the work involved successfully and efficiently in the area of law for which he or she has applied for approval.

Complete application
Means an application that contains all the relevant and required information in the form prescribed by the Ministry and in accordance with any guidelines issued by the Ministry.

Condition on an approval
Means an approval to provide legal services that is subject to conditions imposed by the Secretary in accordance with section 77(2) and Regulation 10.

Contract for services
The agreement between the Ministry and approved provider to supply professional legal services.

Criteria for approval
In accordance with section 77(1) of the Act, criteria developed by the Ministry for determining when a person may be approved to provide legal services and included in the Regulations.

Experience
Includes detailed dates and examples of matters which demonstrate particular skills, knowledge and practice in an area of law.

Lawyer
In accordance with section 6 of the Lawyers and Conveyancers Act 2006 means a person that has been admitted to the roll of barristers and solicitors of the High Court of New Zealand, and holds a current practising certificate.
Lead provider
In relation to a grant of legal aid, means the provider identified in the grant as the lead provider for that matter.

Legal Aid Services
Means legal advice and representation in relation to legal aid described in the definition of legal services.

Legal services
In relation to legal aid (or specified legal services) means legal advice and representation and includes assistance with:

- resolving disputes other than by legal proceedings
- taking steps that are preliminary or incidental to any proceedings, or
- arriving at or giving effect to any out-of-court settlement that avoids or brings to an end any proceedings.
- In relation to anything other than legal aid, includes:
- legal advice and representation and includes assistance (as above), and
- the provision of legal information and law-related education.

Ministry
Means the Ministry of Justice.

Provider
Means a person who is approved by the Secretary to provide legal aid services or specified legal services, or both.

Recent experience
Means relevant post-admission legal experience gained in the last five years.

Restriction on practice
Means any restriction imposed that limits the applicant’s ability to provide services that the applicant has applied to provide under the Regulations.

Substantial and active involvement
Means considerable input into the court or informal proceedings, such as mediation, negotiation, examination or cross examination of witnesses, leading evidence, delivering opening and/or closing addresses, and presenting submissions. Substantial preparation and pre-trial contributions will be considered on an individual basis.

Work samples
Means documents substantiating the statements made by applicants in their application form about their experience and competence in a particular area of law.
Appendix 2 – Relevant courses

Criminal Provider Approval Level 1
For Criminal Provider Approval Level 1, relevant courses include:

- Introduction to Criminal Law Practice
- the Litigation Skills Programme, or
- an equivalent course that consists of most of the following components:
  - fundamentals of being a good criminal lawyer
  - interviewing clients
  - status hearings
  - planning and running defended summary hearings
  - planning and delivering a plea in mitigation
  - sentencing
  - name suppression
  - bail
  - discovery
  - Legal Aid
  - etiquette and ethics
  - evidence in chief
  - cross-examination
  - producing exhibits
  - home detention, and
  - making an objection.

Criminal Provider Approval Level 2
For Criminal Provider Approval Level 2, relevant courses include:

- How to Run a District Court Jury Trial
- the Litigation Skills Programme, or
- an equivalent course that consists of most of the following components:
  - discovery
  - disclosure
  - exhibits
  - preparing a trial notebook
  - developing the theory of the case
  - pre-deposition preparation
  - interviewing clients
  - inspecting the scene
  - identifying the issues
  - conducting depositions
  - post-committal to pre-trial callover
  - brief of evidence
- pre-trial applications
- discussions with the Crown
- late evidence
- jury selection
- tactics
- preparing your client
- trial procedure
- dealing with witnesses
- calling the accused
- opening and closing
- leading evidence
- cross-examination, and
- ethical issues.

**Criminal Provider Approval Level 3**

For Criminal Provider Approval Level 3, relevant courses include:

- the Litigation Skills Programme, or
- an equivalent course that consists of most of the following components:
  - leading evidence
  - cross-examination
  - producing exhibits
  - impeachment
  - examination of expert witnesses
  - opening addresses
  - closing addresses, and
  - pre-trial conferences.

**Civil**

For civil, relevant courses include:

- Introduction to High Court Civil Litigation Skills
- the Litigation Skills Programme, or
- an equivalent course that consists of most of the following components:
  - understanding the various steps in the civil process
  - developing practical skills
  - drafting pleadings, evidence and submissions
  - presenting arguments in civil cases
  - ethics in civil cases
  - summary judgment: principles and procedures
  - taking instructions
  - finding the facts
  - developing the theory of the case
  - developing the strategy of the case
  - progressing the case
  - preparing pleadings, including: purpose, principles, precedents, statements of claim, notice of application for summary judgment, and affidavits
  - preparing for court
  - writing a synopsis, and
  - oral presentations.
Family
For family, relevant courses include:

• Introduction to Family Law Advocacy and Practice, or
• an equivalent course that consists of most of the following components:
  – mediation
  – gathering the facts of the case
  – understanding what material to include in various court documents and why
  – producing effective affidavits
  – developing successful strategies
  – presenting effective arguments in court
  – ethics
  – Family Court procedures
  – protection orders
  – interviewing skills
  – managing difficult clients
  – parenting orders, and
  – appearing in court.

Māori Land Court and Māori Appellate Court
• For Māori Land Court and Māori Appellate Court, relevant courses include:
  • the Litigation Skills Programme
  • Introduction to High Court Civil Litigation Skills, or
  • an equivalent course that consists of most of the following components:
    – setting up and running a case
    – urgency decisions
    – leading evidence
    – cross-examination
    – producing exhibits
    – impeachment
    – examination of expert witnesses
    – opening addresses
    – closing addresses, and
    – pre-trial conferences.

Waitangi Tribunal
• the Litigation Skills Programme
• Introduction to High Court Civil Litigation Skills, or
• an equivalent course that consists of most of the following components:
  – preparing and presenting claims
  – Hui process
  – setting up and running a case
  – urgency decisions
  – leading evidence
  – cross-examination
  – producing exhibits
  – impeachment
  – examination of expert witnesses
  – opening addresses
  – closing addresses, and
– pre-trial conferences.

**Refugee and Protected Persons**

For Refugee and Protected Persons, relevant courses include:

- a course that consists of most of the following components:
  - fundamental changes to immigration legal framework
  - statutory terminology
  - visas
  - sponsor’s obligations
  - protection claims
  - refugee claims
  - immigration officers’ powers
  - deportation
  - detention
  - mediation
  - prosecutions, and
  - penalties.

**Duty lawyer**

For duty lawyer relevant courses include:

- the Duty Lawyer Training Programme, or
- an equivalent course that consists of most of the following components:
  - self-directed reading and preparation for the role of duty solicitor
  - accompanying and observing experienced duty solicitors for at least five half-days
  - practising giving advice by working through realistic scenarios
  - being observed and assessed while appearing as a duty solicitor
  - sitting an open-book examination, and
  - practising and improving advocacy skills.